

Proposed change to the local rules for the United States Bankruptcy Court for the Northern District of Indiana. New material is indicated by redline, and deleted material is indicated by ~~strikeout~~.

B-9013-1
Motions Initiating Contested Matters and Other Requests for Relief

1 (a) Except as otherwise authorized by Federal Rule of Bankruptcy Procedure 6006, every
2 application, motion, or other request for an order from the court, including motions initiating
3 contested matters, shall be filed separately from any other request, except that requests for
4 alternative relief may be filed together. All such requests shall be named in the caption, shall
5 state with particularity the order or relief sought and the grounds for the motion.

6 (b) Motions seeking relief from the automatic stay or adequate protection may not be joined
7 with any other request or objection except abandonment.

8 (c) The application, motion, or other request should be accompanied by a proposed form of
9 order.

Commentary

1 Different types of relief can be subject to very different procedural requirements. Some must
2 be set for hearing on notice to all creditors, others receive a hearing only if an objection is filed,
3 and different deadlines apply to different requests. This rule avoids the confusion that will result
4 if multiple requests for relief are combined in a single motion. It requires each request for relief
5 to be filed separately from any other, unless alternative relief is sought.
6

7 In everyday life, choosing between alternatives often involves a choice between mutually
8 exclusive options: you can go one way or the other, but not both. It is much the same with

9 alternative relief. The court is asked to choose between available remedies: it may do one thing
10 or the other, but not both. If both options could be selected, or if the court is asked to do more
11 than one thing in a given situation, the relief sought is not alternative.

12 Requests for alternative relief will generally use the conjunction “or” in the motion's title or
13 prayer, rather than the word “and,” i.e., “motion to convert or dismiss,” not “motion to dismiss
14 and objection to confirmation.” In the event a movant is not certain whether alternative relief is
15 being sought, separate motions should be filed. There is no penalty for filing separately.

16 Pursuant to Rule 9014(c), certain provisions applicable to adversary proceedings are
17 incorporated into contested matters. Absent from provisions incorporated by Rule 9014(c) are
18 Fed. R. Bankr. P. 7018, 7019, and 7020, which respectively reference Fed. R. Civ. P. 18, 19, and
19 20. It is clear from this omission that joinder of claims, and of joinder of parties, are not
20 contemplated in a contested matter. A contested matter is essentially a discrete action seeking
21 one form of relief as to a single party.